

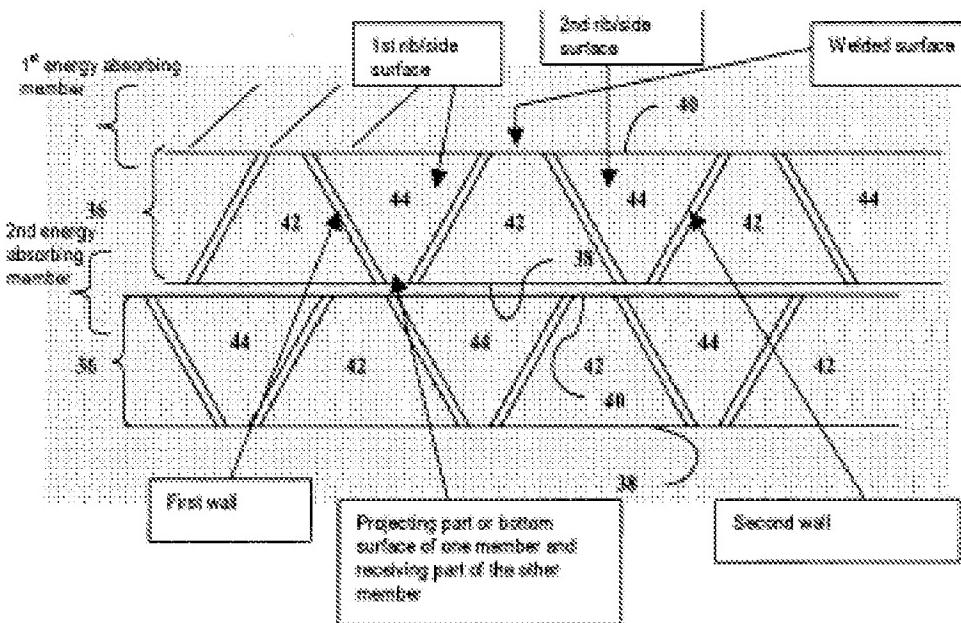
## REMARKS

### Telephone Interview

#### Statement of the Substance of the Interview (MPEP713.04)

On April 18, 2006 Examiner Melody Burch conducted a telephone interview with the Applicant's Attorney, Andrew P. Cernota, Reg. No. 52,711. The Applicant thanks the Office for this opportunity to advance the prosecution of this case. During the telephone interview, the Applicant's Attorney and the Examiner discussed the pending claims, claims 1-4, 6-22. In particular, the discussion was focused on claim 1.

The Examiner articulated her positions taken in the previous Office Actions, namely that portions of the truncated pyramids 44 of the cited reference are the same as the ribs of the claimed invention, and that the sloping sides of the truncated pyramids 44 formed the walls while the bottom of the truncated pyramids 44 form the protruding parts, received in the gap between other truncated pyramids 42. See illustration from Office Action Mailed 4/4/06.



The Examiner maintained her position as articulated in the Office action to which this is a response but acknowledged that a more specific explanation of the relationship between the

claimed elements would distinguish the cited references from the claimed invention. The applicant respectfully disagreed with this analysis of the '387 reference and its comparison with the claimed invention. The Applicant's attorney explained his interpretation of the cited '387 reference and the noted the contrasts with the claims. In light of the Applicant's Attorney's comments, the Examiner acknowledged differences and suggested that further amendment to emphasize the three dimensional nature of the ribs, their coaxial alignment, together with claim amendments to clarify the weld joint, and alignment in series, would place the claims in condition for allowance.

#### **Claim Rejections – 35 USC § 112**

The Office has rejected claims 1-22 under 35 USC§112, second paragraph. The applicant notes that claim 5 has been previously canceled. The Office alleges confusion between which walls and ribs are meant toward the end of claim 1. The applicant notes that the claim recites two energy absorbing members, each having first and second walls and at least one pair of ribs. The first wall of one member is recited to mate with an adjacent second wall of the second member. The applicant respectfully submits that this is particularly pointed out and distinctly claimed in claim 1 as amended. The applicant respectfully submits that this cures this rejection, and requests that the Office withdraw its rejection of claims 1-2, 4, 6-22. (Claim 5 being canceled in a previous Office Action Response.)

#### **Claim Rejections – 35 USC § 103**

The Office has quoted the statute from 35 USC 103(a), which is referenced herein. The Office has rejected claim 1-22 (as noted above, claim 5 has previously been canceled) as being unpatentable over US Patent No. 3,933,387 to Shalloum et al. in view of other references. Applicant has carefully considered the Office rejections and respectfully submits that the amended claims, as supported by the arguments herein, are distinguishable from the cited references.

According to the MPEP §2143.01, "[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found in either the references themselves or in the knowledge generally available to one of ordinary skill in the art."

A useful presentation for the proper standard for determining obviousness under 35 USC §103(a) can be illustrated as follows:

1. Determining the scope and contents of the prior art;
2. Ascertaining the differences between the prior art and the claims at issue;
3. Resolving the level of ordinary skill in the pertinent art; and
4. Considering objective evidence present in the application indicating obviousness or unobviousness.

The Office rejected claims 1-22 as unpatentable over US Patent 3,933,387 in light of Japanese Patent No. JP 10-250513 under 35 U.S.C. 103(a). The applicant has carefully reviewed the Office's rejection and the cited references and respectfully disagrees. Notwithstanding the Office' repeated allegations to the contrary, Figure 2 of the '387 reference simply does not illustrate a design such as that claimed in claim 1.

Claim1: A system for absorbing an impact energy, said system comprising:

first and second blow molded thermoplastic energy absorbing members;  
each of said first and said second energy absorbing members having opposing first and second walls defining a hollow space;  
at least one pair of **coaxially joined first and second three dimensional ribs** disposed within each said first and said second energy absorbing members, said first rib being integrally molded from and directly connected to said first wall and **extending from said first wall into said hollow space**, said second rib being integrally molded from and directly connected to said second wall and **extending from said second wall into said hollow space so as to join said first rib**;  
a welded surface fusing said first and second ribs **at a junction disposed at an opposite end of said first rib from said first wall and at an opposite end of said second rib from said second wall**, said weld surface being directly disposed between and joining said first and said second ribs; and

wherein said first and second energy absorbing members are aligned such that said at least one pair of coaxially joined first and second three dimensional ribs of said first energy absorbing member are **coaxially aligned** with said at least one pair of coaxially joined first and second three dimensional ribs of said second energy absorbing member so that said impact energy is distributed between said energy absorbing members and absorbed by said energy absorbing members;

a **projecting part** is disposed in said first wall of said first energy absorbing member, and a **receiving part** for receiving said projecting part is disposed in an adjacent said second wall of said second energy absorbing member such that when said projecting part mates with said receiving part, said first and said second impact absorbing members are aligned.[Emphasis added]

The applicant has herein amended claim 1 to incorporate the Office's suggestions from the April 18<sup>th</sup> telephone interview. The applicant respectfully submits that in addition to the differences cited in the prior responses and the telephone interview, claim 1, as amended, is further distinguished from the combination of the '387 reference and the '513 reference.

As the Office acknowledged in the telephone interview its interpretation of the '387 reference does not disclose the claimed invention, as amended. Specifically, the '387 reference fails to disclose pairs of coaxially joined three dimensional ribs extending from opposing first and second walls into a hollow space. It fails to disclose a weld in that hollow space joining those ribs at the end of the ribs opposite from its respective wall. It fails to disclose ribs of a first energy absorbing member that are aligned coaxially with the ribs of a second energy absorbing member. Likewise, it fails to disclose a projecting part extending from a first wall of a first energy absorbing member that is received by a receiving part in a second energy absorbing member.

The applicant notes that the '387 reference has been discussed at length in the previous responses. While the applicant disagrees with the Office's characterization of the cited reference,

even assuming for the sake of argument that the Office's position is correct, as noted above, the '387 fails to disclose several of the elements of the claimed invention.

In the Office Action to which this is a response, the Office equates a wall of element 44 with a first rib surface, a wall of second element 44 with the second rib, and the wall 40 between the two with the weld. It further equates element 44 with the projecting part which would be received by the gaps between elements 42, alleged by the Office to comprise part of the second energy absorbing member. (See Examiner's diagram reproduced above.)

The opposing walls of elements 44 are ribs not joined at ends of the ribs opposite the wall by a weld. The alleged weld 9 of the '387 reference is not between the alleged ribs as suggested by the Office, but is, as illustrated in Figs. 3 and 4 (reproduced below) offset such that it is not between the two walls alleged by the Office to represent ribs. In any event, the alleged ribs of the '387 reference are not three dimensional. The only three dimensional structures of the '387 reference are the truncated pyramids 42, 44, that the Office admits are not ribs. If they were, there would be no first and second wall. Furthermore, the weld 9 is not disposed between the ends of the ribs.

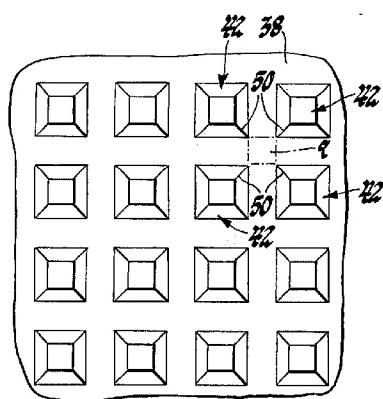


Fig. 3

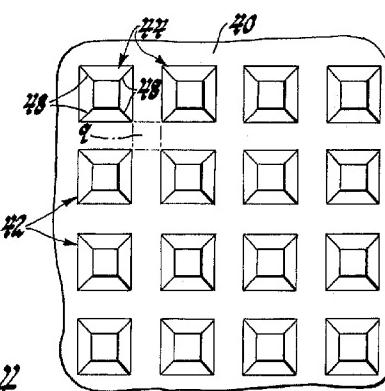
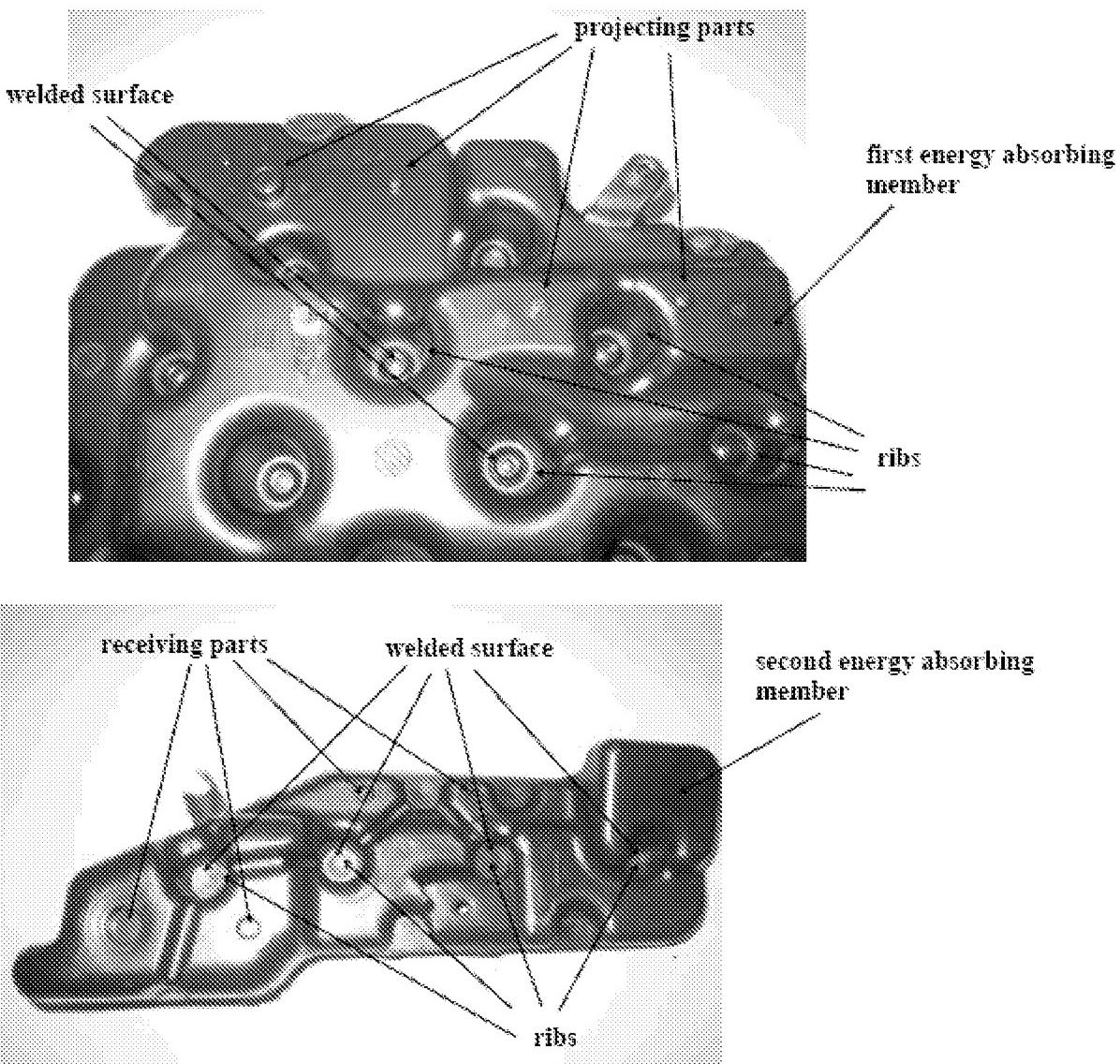


Fig. 4

To further illustrate the distinction between the claimed invention the applicant again provides the following pictures of impact absorbing members which form parts of a system configured in accord with one embodiment of the claimed invention.



The applicant respectfully notes that the projecting parts are distinct structures, not coupled or related to the ribs. They are positioned to be accepted by receiving parts to align the impact absorbing members in an impact absorbing alignment. No such projecting parts are disclosed by the cited '387 reference.

JP-10250513 is used by the Office as evidence that blow molding is known to those skilled in the relevant art. This disclosure does not supply the place of those deficiencies articulated above.

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Reply to Office Action of April 4, 2006

As the cited reference, either taken individually, or in combination fail to disclose those aspects of the claimed invention articulated above, the applicant asserts that the claim 1 is patentably distinct from the cited references. As the remaining claims in the application are dependant from claim 1, the applicant respectfully submits that they too are patentably distinct at least for those reasons stated above. The Applicant respectfully requests that the Office withdraw its rejection of these claims and issue a speedy Notice of Allowance.

The Applicant respectfully requests that the Office contact the undersigned attorney to resolve any remaining confusion in this matter.

Applicant believes the above amendments and remarks to be fully responsive to the Office Action, thereby placing this application in condition for allowance. Applicant requests speedy reconsideration, and further requests that Office contact its attorney by telephone, facsimile, or email for quickest resolution, if there are any remaining issues.

Respectfully submitted,

**/Andrew P. Cernota, Reg. No. 52,711/**

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